

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2559

IN THE MATTER OF:

Served May 24, 1984

Interpretation and Enforcement       )  
of Title II, Article XII,               )  
Section 1(c) of the Compact            )

Case No. MP-83-01

BACKGROUND

By Order No. 2407, served April 20, 1983, and incorporated by reference herein, the Commission initiated this proceeding to interpret and enforce Title II, Article XII, Section 1(c) of the Compact as it applies to the operations of vehicles, other than taxicabs, with a seating capacity of eight passengers or less, excluding the driver, 1/ engaged in for-hire transportation between points in the Metropolitan District and not operating on a fixed schedule or between fixed termini. This encompasses, basically, so-called "VIP limousine" and similar services. In the past, the Commission has exercised jurisdiction over small vehicle services only when operated on schedules or between fixed termini. Now, however, the Commission seeks to determine whether it is required to depart from its past practice, and, if so, how it should exercise its jurisdiction under the Compact as it applies to small vehicle operations.

To the extent that the operations under investigation herein constitute "bona fide taxicab service" within the meaning of Title II, Article XII, Section 1(c) of the Compact, the Commission is empowered only to regulate interstate rates and prescribe minimum insurance

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1/ Such vehicles shall be referred to herein as "small vehicles." We note in passing that the concept of "seating capacity" as used in the Compact is interpreted by us to mean the manufacturer's maximum designed seating capacity for a particular vehicle. This interpretation provides an objective standard that is easy to apply and enforce, and promotes passenger safety by discouraging makeshift modifications of vehicles for the sake of coming within the eight-passenger limit. In this regard, we are concerned by reports from our staff of vans that have been modified by the replacement of bench seats with folding chairs, for example, in an effort to meet the limit. Such a situation is distinguishable from the case where a vehicle is customized and, in effect, re-manufactured to a new designed seating capacity.

requirements. Otherwise, to the extent such operations go beyond "bona fide taxicab service," the Commission has full regulatory jurisdiction under the Compact, including the power to control entry into the market through the certification process. Nevertheless, it appears that the Commission's past practice of declining to exercise its jurisdiction in this area has contributed to a widespread belief that all forms of call-and-demand small vehicle service are totally exempt from regulation. Any change in our past practice, therefore, might well have a significant impact upon the small vehicle transportation industry. Therefore, it has been deemed necessary to undertake a complete investigation before acting on these matters.

Pursuant to the said Order No. 2407 and Rule No. 6-03 of the Commission's Rules of Practice and Procedure, notice of this proceeding and the matters under investigation was duly published in The Washington Post on June 17, 1983. In addition, the Commission mailed copies of Order No. 2407 to more than 320 WMATC certificated carriers and other persons believed to have an interest in this proceeding. Interested members of the public were invited to file comments on or before July 26, 1983. 2/ In particular, information was requested in response to four issues of major concern to the Commission, as follows:

1. What operations conducted by vehicles with a seating capacity of eight passengers or less, other than taxicabs, should be considered "bona fide taxicab service"?

2. Where operations should be certificated under Title II, Article XII, Section 4(b) of the Compact, but such operations have heretofore been conducted under a good-faith belief that they were exempt, what, if any, special evidentiary considerations should apply when such operators file applications for a certificate of public convenience and necessity?

3. Where operations need not be certificated but are subject to interstate rate requirements, what procedures and considerations, if any, should be used to establish a rate structure other than that established by Order No. 2336?

4. What registration and reporting requirements should be imposed on operators of "other vehicles" to assure that the rates established therefor are just and reasonable and provide an opportunity to earn an adequate rate of return?

Comments were timely filed by L'Enfant Limousine Service; Mr. Milton Kaplan; Vintage Vehicles, Inc.; Prince George's County

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2/ This date was the final deadline for comments as extended by Order No. 2416, served May 12, 1983.

Council; Washington D.C. Taxicab Association; Allied Limousine Association; Chap's Limousine Service; John B. Ivey Associates, Inc.; Washington Area Limousine Association, Inc.; Transportation General, Inc.; and International Limousine Service.

#### SUMMARY OF COMMENTS

L'Enfant Limousine Service is based in Washington, D.C., and operates three Cadillac limousines, each with a seating capacity of six persons. Its services are offered on a call-and-demand basis, 24 hours a day. Typically, patrons use the service for airport pick-ups and drop-offs and for transportation to and from formal balls, dinner parties, and the theater. Its rates are based on an hourly charge per limousine.

L'Enfant Limousine Service takes the position that any vehicle which holds six passengers or less and accepts passengers only on an on-call basis should be considered to be engaged in bona fide taxicab service. Where operators have an established route and daily routine, thus requiring a certificate from this Commission, L'Enfant Limousine suggests that the submission of three letters of reference from past or prospective customers attesting to a carrier's good business practices should suffice as evidence to support the issuance of a license.

Mr. Milton Kaplan of Silver Spring, Md., operates a tour service catering to the needs of visitors to the Washington area. His service features site-to-site tours for sightseeing purposes in which passengers are dropped and picked up at each location. For approximately the past 20 years, Mr. Kaplan states that he has been operating his service in the belief that it is exempt from regulation. He believes that all operations such as his own should be exempt from regulation to prevent the danger of de facto monopolization of the sightseeing tour business by large operators who would have an advantage in the adversarial aspects of the regulatory process due to their superior economic resources. Mr. Kaplan does not specify the seating capacity of his vehicle or the method of charging for service.

Vintage Vehicles, Inc., of Gaithersburg, Md., operates a fleet of four 1931 Model A Fords, each of which has a seating capacity of four passengers. It offers a limousine service that features drivers attired in period chauffeur uniforms. Patrons use its services predominantly for transportation of wedding parties, but other uses include transportation incidental to anniversaries, birthdays, entertainment of business clients, and sightseeing. Its services are available on a call-and-demand basis, including weekends and evenings, and its charges are based on an hourly rate per vehicle. Vintage Vehicles expresses no position on the issues under investigation by the Commission, and its comments seek only to provide the Commission with operating information.

The Prince George's County Council, through its Human Resources Committee, filed comments generally endorsing the purpose of the investigation undertaken by the Commission. It indicates an intent to monitor this proceeding to see what effect, if any, it may have on the regulation of taxicabs within the county.

Similarly, the Washington D.C. Taxicab Association indicates an interest in this proceeding to the extent that it may affect the sightseeing operations of taxicabs. The comments of this party are, essentially, a plea that this proceeding not be used as a guise to impose some form of entry regulation on the sightseeing operations of taxicabs.

The Allied Limousine Association is a Washington, D.C., organization composed of 20 members, all of whom are independent operators of limousine services. Each constituent service operates two or three unmarked, luxury-class limousines capable of accommodating up to six passengers in addition to a driver. The members provide transportation for weddings and funerals, and also to meet the needs of business and government officials. Customers pay for the exclusive use of a limousine and are billed on a monthly basis according to hourly rates. The services have no fixed schedules or routes, offer no sightseeing guides or tours unless special arrangements are made, and do not solicit or pick-up passengers along the street.

The Allied Limousine Association contends that services such as its members provide should neither be considered as bona fide taxicab service, nor be subjected to the certification requirements of the Compact. The Association urges that this Commission lacks jurisdiction to regulate the type of operations conducted by its members. Nevertheless, the Association further urges that, if the operations of its members and other similarly situated persons are subject to the Compact's certification requirements, then evidence of operations long conducted under a good faith belief that such operations were exempt should be considered as conclusive proof of an operator's fitness, willingness and ability to provide service and of the existence of a public demand or need for such service. Finally, the association contends that the establishment of rates should be left to the discretion of each individual limousine service, and that reporting and registration requirements should not go beyond the filing of copies of an operator's tax returns with the Commission.

Chap's Limousine Service, also of Washington, D.C., operates one limousine that seats six passengers plus a driver. Ninety-eight percent of its service involves funerals, and weddings constitute the remainder. Its charges are based on hourly rates. Due to the nature of funerals and weddings, Chap's operates on a call-and-demand basis exclusively.

Chap's position, like that of the Allied Limousine Association, is that this Commission lacks jurisdiction over any aspect of its

operations. It urges that if a scheme of licensing is imposed, then existing operators should have "grandfather" privileges based on evidence of past operations conducted under a good faith belief that such operations were exempt. It further contends that the Commission should not attempt to regulate rates for the funeral car services it provides. Chap's believes this would necessarily entail consideration of the practices of the undertaking industry, which are intimately intertwined with the operation of services such as Chap's, but which are outside the scope of the Commission's regulatory expertise. Chap's sees no need for reporting or registration requirements more onerous than the filing of copies of tax returns.

John B. Ivey Associates, Inc., of Washington, D.C., operates two limousines capable of seating five and seven passengers, respectively, excluding the drivers thereof. Its charges are based on hourly rates, and it holds out its services on a call-and-demand basis only. Ivey Associates deals primarily with corporations, providing them with exclusive use of its limousines for whatever purposes they may require. The arguments advanced by this party do not differ materially from those of Allied Limousine Association or Chap's Limousine Service, discussed above.

The Washington Area Limousine Association, Inc., is a non-profit District of Columbia corporation. It has eleven members engaged in the operation of limousine services utilizing chauffeur-driven vehicles with a capacity not exceeding seven passengers. It appears that all of WALA's members offer limousine service on a call-and-demand or "reservations only" basis.

WALA asserts that the limousine services conducted by its members are already regulated at the local level by the Maryland Public Service Commission, the Virginia State Corporation Commission, and the District of Columbia Public Service Commission, and by the Interstate Commerce Commission on the federal level. The effect of the existing regulatory scheme is to impose minimum insurance requirements for the protection of the public. WALA takes the position that the creation of an additional layer of regulation would be counterproductive, unduly expensive, unnecessary for the protection of the public interest, and beyond the power of this Commission under the Compact. It urges, in essence, that this proceeding be discontinued and that the status quo be maintained.

International Limousine Service filed comments through its counsel. Those comments fail to disclose any facts concerning the nature of International's operations which may be within the scope of the present investigation. International argues that the Commission should continue to refrain from asserting jurisdiction over the operations under investigation. It asserts that the market for limousine service is self-regulating due to the sophistication of users of such service, that there have been no complaints from the public

about existing limousine services, and that the present regulation of limousines by the District of Columbia, Maryland, and Virginia is adequate. Accordingly, it argues that there is no justification for the Commission to impose any additional regulatory burdens on limousine services.

The last commentator is Transportation General, Inc., which describes itself as the management corporation for numerous transportation and transportation-related companies in the Washington, D.C., metropolitan area. TGI's affiliates include Airport Limo, Inc., Arlington Red Top Cab Company, Arlington Yellow Cab Company, Murphy Brothers Incorporated, and Air Transit, Inc., all of which are engaged in operations within the scope of this investigation to various degrees. Air Transit, since 1974, has been using luxury vehicles accommodating eight passengers or less to transport affluent clients who prefer a limousine to a taxicab. Airport Limo is said to have recently expanded its sedan fleet in response to a perceived growth in demand for VIP limousine service. Similarly, Red Top, Yellow Cab, and Murphy Brothers, which are described as "traditional" taxicab companies, apparently have used special vehicles since the 1960's to provide service for funerals, weddings and other functions requiring luxury transportation. In addition, they maintain antique cars for use in functions such as parades, picnics, and Christmas parties.

All of the TGI affiliates employ a rate structure based on hourly charges for the services described above. TGI notes that the rate structure is adjusted to take into account such factors as the frequency of use by a particular client and the length of time for which the vehicles are hired.

TGI points out that the capital investment required to enter the market for limousine services is relatively small and that, consequently, operators enter and leave the market frequently and easily. This attribute, it argues, would make it difficult to police a system of certificating limousine operators. Moreover, it argues that since the demand for limousine services is small, limousine operations do not affect the public interest to such an extent as to warrant market entry regulation. TGI concludes that it would be a mistake for the Commission to attempt to certificate the operations of vehicles seating eight or less.

As for rates, TGI believes there is too much variety in the types of equipment and services offered by existing carriers to make regulation feasible. It points out further that the market for limousine services is volatile and inherently unpredictable, since the demand for such "luxury" service is constantly affected by changes in the national economy. This attribute makes the market, in TGI's view, particularly incompatible with the concept of achieving a fair return on invested capital by rate regulation.

On the other hand, TGI endorses the concept of prescribing minimum insurance requirements that would apply uniformly to limousine operations in the Metropolitan District. It feels this would benefit the public by establishing a standard for the protection of passengers, while not unduly interfering with business operations. It points out, however, that even this limited exercise of regulatory power would be difficult to enforce due to the lack of effective means to monitor the ceaseless turnover among operators in the market under investigation.

#### DISCUSSION AND CONCLUSIONS

For the reasons discussed below, we conclude from our investigation that the term "bona fide taxicab service" as used in Title II, Article XII, Section 1(c) of the Compact, as interpreted herein, will include most operations of so-called "VIP limousines" and other small vehicle services. Not included in the term "bona fide taxicab service" are operations by limousine and certain other small vehicle services which are conducted on a schedule or between fixed termini. As pointed out in Order No. 2407, at page 9, existing precedent makes it clear that the operation of any motor vehicle for-hire, regardless of size, between fixed termini or on a regular schedule does not constitute "bona fide taxicab service" and, hence, requires a certificate of public convenience and necessity from this Commission. 3/ Nothing in this order changes that rule. Other types of service, not meeting the criteria set forth below, would continue to be subject to certification.

We further conclude that it is not necessary to prescribe uniform interstate rates and insurance requirements for small vehicles used in performing bona fide taxicab service inasmuch as the regulations enforced by the signatory jurisdictions are adequately serving the public interest. We shall, therefore, adopt a final order that correlates our interstate regulatory jurisdiction over small vehicles with the intrastate regulations of the signatories. Our action in this regard thus will clarify the extent of our jurisdiction over small vehicle services and integrate the regulatory scheme for this segment of the transportation industry. 4/

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3/ See Compact, Title II, Article XII, Section 2(d), and Montgomery Charter Serv., Inc. v. WMATC, 325 F.2d 230 (D.C. Cir. 1963).

4/ Order No. 2407 contemplated the formulation of a proposal for future regulations, procedures, and/or policies. In light of the construction of Section 1(c) reached through our investigation, we find that there is no need to put forth a proposal for additional comment. Inasmuch as the action we take, though final in nature, has no material impact on the small vehicle industry, there is no need for additional fact gathering through soliciting more public comments.

Section 1(c) of Title II, Article XII of the Compact speaks in terms of a partial exemption from regulation for two types of vehicles; namely, "taxicabs" and certain "other vehicles used in performing bona fide taxicab service . . . ." The term "taxicab" is specifically defined by Title II, Article XII, Section 2(d) as a vehicle "used for the purpose of accepting or soliciting passengers for hire . . . as the passengers may direct." The phrase "bona fide taxicab service" is undefined, but under the ordinary rules of statutory construction this language is to be given its plain meaning, unless to do so would lead to unreasonable results.

Following this rule, we find that the phrase "bona fide taxicab service" is intended to denote a service which has the same characteristics as service which is provided in a taxicab, but which is provided in a vehicle that is not a "taxicab" within the technical meaning of that term. In other words, "vehicles used in performing bona fide taxicab service" are vehicles which behave like taxicabs but are not taxicabs. 5/

Based on our experience gained from regulating their interstate rates and insurance requirements over the years, we believe taxicabs are identified by at least four characteristics. First, a taxicab provides transportation "as the passenger may direct." This means the person who hires the vehicle has the right to direct it to go from one point to another as it performs service. The points between which transportation is performed are determined solely by the person who hires the vehicle and are not pre-determined or limited by the operator of the vehicle. Quite often, even the route to be followed is dictated by the person who hires the vehicle. 6/

Secondly, a taxicab carries passengers on an exclusive-use basis. In other words, the person who hires the vehicle has the right to sole use and possession of it during the term of hire. 7/

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5/ A taxicab, in this sense, means a vehicle specifically licensed and regulated as a taxicab by the District of Columbia or one of the political subdivisions of Maryland or Virginia located in the Metropolitan District.

6/ Under the zone system used in the District of Columbia, a taxicab operator is not technically required to follow the route requested by a passenger. As a practical matter, however, hackers are usually receptive to the requests of those who pay the fare and, hence, have the prerogative to tip the driver.

7/ Under WMATC regulations and the regulations of most jurisdictions, a taxicab may handle more than one fare at a time only at the option of the first fare. This general rule reflects the right of the first fare to the exclusive use and direction of the vehicle.



Thirdly, a taxicab provides a call-and-demand type of service. This means transportation is rendered at a time chosen by the person who hires the vehicle, not at a time or on a schedule predetermined by the operator of the vehicle. Typically, a taxicab provides service when it is hailed from the street or approached at a taxicab stand. 8/ It is also common for a passenger to phone ahead and request to have a taxicab dispatched to make a pick-up at a specific time and place.

Finally, a taxicab charges rates based on the duration and/or distance of the transportation rendered. Put another way, the charge is not a flat rate for service where the operator of the vehicle bears the risk of unforeseen delays or deviations from the most direct route. Instead, the charge for service rendered bears some relation or proportion to the factors of time and/or distance so that the risks of unforeseen delays and/or deviations fall on those who hire the vehicle. 9/

The characteristics discussed above are shared in common to some degree by taxicabs and other transportation classifications such as certain charter services. For example, charter service is defined as transportation where a group 10/ hires the exclusive use of a

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8/ One of the more significant distinctions between a "taxicab" and an "other vehicle used in performing bona fide taxicab service" is this feature of cruising and accepting fares.

9/ That metered taxicab rates are based on time and distance is self-evident. The zone system of rates, which is used in the District of Columbia, is essentially based on distance; that is, rates reflect generally the relative distances in and between zones. It may be argued that the zone system removes from the passenger any risk of delays or deviations increasing the charge for service. Even if this is true, it reflects a decision by the regulatory authorities in the District of Columbia to put some of the risk on the taxicab operator and is offset by the features of driver's choice of route and driver's option to pick up additional passengers; it does not change the basic nature of the way taxicab rates are determined. We note, too, that during the most difficult traffic period, the afternoon rush, taxicabs operating within the District of Columbia are authorized to levy a surcharge that helps compensate the driver for the additional time such trips may take.

10/ Charter service is frequently called "group charter" in the industry and carries the connotation of travel arranged in advance to meet the predetermined needs of a larger group, whereas taxicab service connotes the more immediate travel requirements of an individual or small party.

vehicle and thus, as a technical matter, has the right to determine when and where the vehicle goes. Charter service is commonly provided on a call and demand basis. Moreover, rates charged by charter operators commonly are based on time or mileage.

The difference, however, between a taxicab service and certain charter services is a matter of degree. A vehicle used as a taxicab almost always renders service of the "call-and-demand" type discussed above and, hence, rarely, if ever, operates between fixed termini or on regularly scheduled runs. 11/ A vehicle used in performing a charter service, on the other hand, may or may not operate on a "call-and-demand" basis. A charter service may be, and often is, repetitive and predetermined and may, and often does, involve fixed termini and regular schedules. 12/ Accordingly, Section 1(c) speaks in terms of other vehicles used in performing not merely something resembling taxicab service, but, rather, "bona fide taxicab service."

"Bona fide" in the sense of Section 1(c) means genuine and authentic taxicab service. It excludes a service which superficially or occasionally exhibits the characteristics of taxicab service as described above, but in reality is intended for something else. The concept of "bona fide taxicab service" embraces an element of good faith intent to provide nothing more and nothing less than taxicab service. It is inconsistent with a service that routinely offers passengers a trip that is composed by the operator in advance of being contacted by the passenger, where the element of casual passenger selection of points to be traversed, if present at all, is the exception rather than the rule.

We find that, as used in Section 1(c), the phrase "bona fide taxicab service" means service that is:

(a) transportation intended in good faith to be provided only between points selected at will by the person or persons hiring the vehicle in which such transportation is provided;

(b) conducted in a vehicle subject to the exclusive use of the passenger or single party of passengers hiring the vehicle for the entire time such vehicle is under hire;

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11/ Cf. Compact, Title II, Article XII, Section 2(d).

12/ The classic example is charter service conducted pursuant to contract, such as is covered by our Regulation No. 70 and Special Certificate of Public Convenience and Necessity No. 1. Indeed, Regulation No. 70-04(5) contemplates that a schedule will be filed with the application for such authority, if one is required by the underlying transportation contract.

(c) priced at rates based on the duration and/or distance of the transportation rendered; and

(d) conducted in vehicles engaged solely in rendering or performing transportation as described in subparagraphs (a), (b), and (c) above.

We conclude that this definition, which we hereby adopt, adequately carries out the intention of Section 1(c). Moreover, in light of the evidence developed through our investigation in this proceeding, we find the definition adopted herein adequately distinguishes the operations of so-called "VIP limousines" and certain other small vehicle services from other operations which require certification.

The definition adopted herein does not subject to the certification requirements of the Compact any carrier which was not already so subject. There is, therefore, no need to establish special evidentiary criteria and procedures for persons who may file applications to conduct non-exempt small vehicle services.

The evidence presented by the commentators demonstrates the wide variety of small vehicle equipment and services that are available today within the Metropolitan District. There are operators who furnish limousines to lend the necessary air of formality to weddings, funerals, and so forth, or simply to gratify the desire of the affluent for luxury. There are other operators who furnish antique automobiles to satisfy the taste of those who prefer to travel in old-fashioned style. Yet, despite the diversity of the particular needs they seek to meet, most of the commentators share the attributes of (1) providing transportation between points according to the will of their customers, (2) hiring out their vehicles for the exclusive use of their customers, (3) charging rates based on time and/or distance, and (4) dedicating their vehicles exclusively to such service.

We think it is useful to note that the definition we have adopted herein of the phrase "bona fide taxicab service" is consistent with the understanding of Congress in amending Section 1(c) to its present form. In the House debate on the 1962 amendments to the Compact which adopted the quoted phrase, the following colloquy occurred:

Mr. O'HARA of Illinois. Mr. Speaker, reserving the right to object, I would like some clarification on a phrase in which I have a personal interest. That interest stems from my regard for Ralph Worthy, whom I have known during my long residence at the Congressional Hotel. Mr. Worthy, who is a married man, a college graduate, and a respected citizen, owns a limousine and he services guests at the Congressional Hotel who desire to tour Washington and adjacent

points of historical interest, going where they or members of their party may desire and under the guidance of one familiar with the Capital City and the adjacent spots like Mount Vernon and whose reliability is vouched for by the hotel.

This is a clean and necessary business. It is a supplementary service to that furnished by the established buslines. There are many families who visit Washington who desire to go in their own family groups in limousines. I would say, Mr. Speaker, that all my colleagues in the House would agree with me that there are constituents who would feel that something was taken away from them if this service were denied them. Touring the city and the adjacent territory and at their leisure stopping in at places of interest, and doing this in their own taxis or limousines, contributes much to their delight and thrill coming to Washington.

There are many Ralph Worthys. They are part of our Washington and, on the whole, I think they are dedicated men. They are small businessmen in the local transportation field. It would be a crime and a disservice to our constituents if conditions for their operation were made so difficult that they were driven out of business. I would like it clarified that it is not the intent of the Congress, in agreeing to the pending bill, that it should drive the limousines from the tourist business, monopolizing all such business in the hands of the large carriers.

Mr. Worthy fears, and I understand other people like him, that the intent back of this bill is to do away with these limousines. I would like that clarified.

Mr. WILLIS. I am glad the gentleman asked that question. It is very specifically answered on page 6 of the report which I read:

"The committee notes that the Transit Commission has taken the position that 'bona fide taxicab service' includes incidental sightseeing operations performed by taxicabs. Indeed, the Commission has stated the opinion that normal sightseeing operations being conducted by limousines in the Washington Metropolitan area are in fact a type of taxicab service, and that it is not the Commission's

intention to require certificates as a prerequisite to engage in such operations."

So the answer is specifically set forth in the report as to the position of the Commission.

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Mr. O'HARA of Illinois. Then the gentleman, for whom I have the greatest respect, and whose word is the strongest bond I could wish, assures me that it is not the intent or purpose of this bill to put the limousine operators out of business?

Mr. WILLIS. It is not. 13/

Thus, we find that those small vehicle operations meeting the definition in this proceeding fall within the partial exemption of Section 1(c), and, hence, are subject to regulation by this Commission only as regards the establishment of interstate rates and the maintenance of minimum amounts of insurance for the protection of the public. 14/ Having thus determined the extent and scope of our jurisdiction, the next question is how to exercise it.

Our investigation has uncovered no evidence of abusive practices in the setting of interstate rates by small vehicle operators. Rates appear generally to be set by the hour without regard to political boundary lines, so the opportunity for overreaching and unfair dealing would appear to be minimal. Similarly, there is no evidence of a failure of operators to maintain adequate levels of insurance coverage. On the contrary, the interest of the public appears to be well and adequately served by the regulatory framework that has already been established by the signatories of the Compact.

In this regard, we note that Maryland, the District of Columbia, and Virginia each require for-hire transportation services such as those under investigation here to have certain minimum amounts of insurance for the protection of passengers. These vary from one signatory to the next. The marginal benefits to be gained by prescribing a uniform standard throughout the Metropolitan District would appear to be far outweighed by the cost of establishing an

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13/ 108 Cong.Rec. 15601-2 (1962).

14/ The definition adopted herein thus formally excludes from certification and certain other regulatory requirements such operations as the hourly-rate services described in Gannon Common Carrier Applic., 29 M.C.C. 662 (1941) and preserves the distinctions spelled out in Bevacqua Common Carrier Applic., 73 M.C.C. 751 (1957). See Order No. 2407 at pp. 3 and 7-8.

effective program of enforcement. Accordingly, we believe it is appropriate for us to require merely that the partially exempt small vehicles operated in interstate commerce within the Metropolitan District maintain at least the same amount of insurance covering interstate operations as is required with respect to intrastate operations by the jurisdiction in which such vehicles are or should be licensed to conduct for-hire operations.

We also note that, at present, the signatories in general have seen fit not to regulate the intrastate rates of small vehicle operations of the kind found to be partially exempt herein. This being the case, we find no need for us to do so on an interstate basis. We recognize, however, that some or all of the signatories may begin to regulate such rates at some point in the future. In light of that possibility, we will use this proceeding to establish a mechanism for coordinated rate regulation at the intrastate and interstate level.

Accordingly, we believe that our best course of action, at this time, is to adopt a rule for interstate rates of small vehicle services within the partial exemption of Section 1(c) modeled after our general practice for interstate metered taxicab rates. That is, we shall adopt a rule which requires the interstate rates for such services to be the same as the intrastate rates, if any, prescribed by the signatory jurisdictions. Since it appears that any rates which might some day be prescribed by the intrastate authorities would probably follow the apparent practice in the industry and be based on hourly charges, rather than a zone system, we are of the opinion that such a rule of correlation will prove feasible. It will also be flexible enough to allow the signatory jurisdictions a free hand in regulating rates for such services, if they see fit to do so, without having to coordinate their action with a separate interstate rate structure. Moreover, this rule obviates the need for any WMATC registration and reporting requirements.

One last matter deserves comment. We have in the past prescribed rates and minimum insurance coverage for the interstate operation of "gypsy" taxicabs in the Metropolitan District through certain orders <sup>15/</sup> which, by their terms, apply to "other vehicles engaged in bona fide taxicab service." In light of the decision in this proceeding, these prior orders might be construed to apply to the services found herein to be partially exempt as well as to operations of unlicensed taxicabs. Such a construction would mean that rates for interstate transportation in a limousine within the Metropolitan District would be identical to those for transportation in an ordinary taxicab. This result, obviously, would be both unwarranted and unintended by the action we are taking in this proceeding.

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<sup>15/</sup> See, for example, Order No. 2336, served May 7, 1982.

Those prior orders were drafted with a view to reaching the operations of so-called "gypsy" taxicabs. These are vehicles which are ordinary taxicabs as that term is commonly understood and as defined in Title II, Article XII, Section 2(d) of the Compact, but which are not licensed and regulated as taxicabs due either to the vagaries, or outright violations, of the laws of the jurisdictions. They cruise the streets in search of fares, operate from taxi stands and so forth, but they are not licensed as taxicabs under the laws of the jurisdiction in which they are operated or domiciled. In short, "gypsy" taxicabs are motor vehicles that would be required to be licensed and regulated as taxicabs if they were domiciled in the District of Columbia or one of the political subdivisions of Maryland or Virginia located in the Metropolitan District.

In the past, the operations of "gypsy" taxicabs within the Metropolitan District presented a serious regulatory problem and we dealt with it by using our power over "other vehicles used in performing bona fide taxicab service." The use of this phraseology in our orders was intended to preclude a technical argument by the "gypsy" taxicab operators that they are not "taxicabs" because they are not formally licensed and regulated as such, and, hence, are not subject to our interstate rates and insurance requirements prescribed for taxicabs.

Now, however, we find that our past orders may have been painted with too broad a brush. Thus, in this order we find it necessary to clarify our previous orders so they will not be in conflict with our interpretation of Section 1(c) herein. Henceforth, as used in all of our orders served prior to this one, the phrase "other vehicles used in performing bona fide taxicab service" and phrases to the same effect shall be construed to include only such vehicles as would be required to be licensed and regulated as a taxicab under the laws of the District of Columbia if operated and domiciled therein. 16/

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16/ We have established a construction of our prior orders based on a vehicle's hypothetical domicile and operation in the District of Columbia. Since the purpose of the hypothesis is to distinguish "gypsy" taxicabs from other partially exempt small vehicle services, we believe it is necessary to pin down the site of the hypothetical domicile and operation to one jurisdiction only so that we can easily make a determination of a vehicle's status with reference to one set of regulatory laws. We chose the District of Columbia as the jurisdiction of reference because it is the geographical center of the Metropolitan District, it is the only signatory located wholly within the Metropolitan District, it is the only signatory in which just a single set of taxicab regulatory laws applies, and the majority of licensed and regulated taxicabs in the Metropolitan District are in fact operated and domiciled in the District of Columbia.

THEREFORE, IT IS ORDERED:

1. That as used in Title II, Article XII, Section 1(c) of the Compact, the words "bona fide taxicab service" shall be, and they hereby are interpreted to mean a service that is:

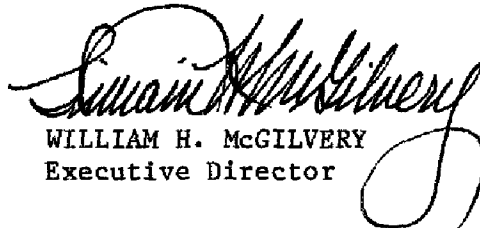
- (a) transportation intended in good faith to be provided only between points selected at will by the person or persons hiring the vehicle in which such transportation is provided;
- (b) conducted in a vehicle subject to the exclusive use of the passenger or single party of passengers hiring the vehicle for the entire time such vehicle is under hire;
- (c) priced at rates based on the duration and/or distance of the transportation rendered; and
- (d) conducted in vehicles engaged solely in rendering or performing transportation as described in subparagraphs (a), (b), and (c) above.

2. That as used in all orders in effect prior to the effective date of this order, the phrase "other vehicles used in performing bona fide taxicab service," and phrases of like content, shall be, and hereby are, interpreted to include only such vehicles as would be required to be licensed and regulated as a taxicab under the laws of the District of Columbia if operated and domiciled therein.

3. That all vehicles operating within the Metropolitan District having a seating capacity of eight persons or less, excluding the driver, and engaged in performing bona fide taxicab service, other than taxicabs and vehicles that would be required to be licensed and regulated as taxicabs under the laws of the District of Columbia if operated and domiciled therein, shall henceforth establish such rates and charges for interstate transportation and obtain such insurance coverage as would be sufficient to satisfy the rate and insurance requirements, if any, established with respect to intrastate transportation performed in such vehicles by the laws of the jurisdiction in which such vehicles are operated.

4. That this order shall be effective upon the 31st day after the date of service thereof.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:

  
WILLIAM H. MCGILVERY  
Executive Director